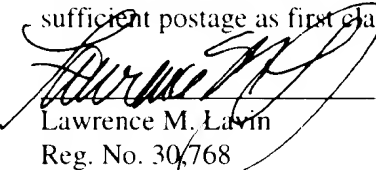


IN THE UNITED STATES PATENT AND TRADEMARK OFFICECertificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 with sufficient postage as first class mail this 12 day of December, 2002.


Lawrence M. Lavin
Reg. No. 30,768

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In re the Application of: Timothy W. Conner et al

Serial No: 09/846,903 Group Art Unit: 1638
Filed: May 1, 2001 Examiner: Cynthia E. Collins

For: PLANT REGULATORY SEQUENCES FOR SELECTIVE
CONTROL OF GENE EXPRESSION

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT UNDER 35 U.S.C. 1.21

This paper is filed in response to the Office communication dated November 12, 2002. It is respectfully requested that the election below be entered with traverse and that the application be examined on the merits.

Remarks

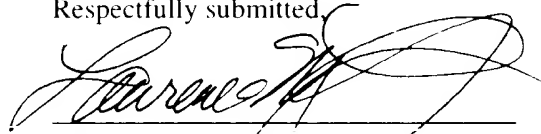
In the action dated November 12, 2002, the U.S. Patent and Trademark Office required restriction under 35 U.S.C. 121 from among the following groups:

- I. Claims 1-23, drawn to an isolated nucleic acid, a promoter, a cell, a transgenic plant, a method of regulating transcription, and a method of making a transgenic plant, classified in class 435, subclass 6.

Applicants elect Group I consisting of Claims 1-23 and elects Sequence ID No. 79, with traverse and respectfully request that the application be examined on the merits. Applicants believe that it would not create an undue burden on the Examiner to conduct a search encompassing all of the claims. Further, Applicants reserve the right to file divisional applications to further prosecute non-elected groups.

Should any questions arise or if Applicants or Applicants' attorney can facilitate the examination of this application, it is respectfully requested that the PTO contact the undersigned attorney.

Respectfully submitted,



Lawrence M. Layin, Jr.
Monsanto Company
800 North Lindbergh Boulevard
St. Louis, Missouri 63167

Reg. No. 30.768
636-737-6670 phone
636-737-6047 fax
December 12, 2002